



SENATE REPUBLICAN

POLICY COMMITTEE

Legislative Notice

No. 53

April 14, 2008

H.R. 1195 – The Highway Technical Corrections Act of 2007

Calendar No. 608

H.R. 1195 was read twice and placed on the calendar on March 7, 2008.

Noteworthy

- When the Senate begins consideration of H.R. 1195, the Highway Technical Corrections Act of 2007, the managers of the bill are expected to offer an amendment as a full substitute that will serve as the base bill for Senate debate.
- H.R. 1195 fixes errors and modifies project descriptions for over 400 projects that were included in the Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU, P.L. 109-59), affecting the highway and transit programs. Title I makes certain revisions and technical corrections to the surface transportation program. Title II makes technical corrections to SAFETEA-LU related to transit. Title III makes changes related to motor-carrier safety, hazardous materials transportation, highway safety, and applicability of the Fair Labor Standards Act (FLSA). Title IV provides for certain miscellaneous conveyances. Title V makes a change to the Water Resources Development Act of 1992.
- H.R. 1195 passed the House on March 26, 2007. The Committee on Environment and Public Works (EPW) marked up its version of the bill in June 2007, and ordered it reported with an amendment in the nature of a substitute on June 6, 2007. H.R. 1195 was reported with an amendment in the nature of a substitute on March 7, 2008.
- At press time, there was no official score for the substitute amendment for H.R. 1195. The preliminary Congressional Budget Office (CBO) score for the substitute notes a reduction in budget authority of \$4 million over the FY 2008 and 2009 period, and a reduction in budget authority of \$1 million over the FY 2008-2012 period.
- At press time, there was no Statement of Administration Policy (SAP) for H.R. 1195.

Highlights

Technical Corrections:

H.R. 1195 fixes miscellaneous drafting errors and modifies descriptions for projects that were included in Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU, P.L. 109-59), affecting the highway and transit programs. According to the bill managers, the changes will allow the projects to be completed as originally intended or permit funds to be used on different projects. The legislation also makes changes to a limited number of projects from the Transportation Equity Act for the 21st Century (TEA-21, P.L. 105-78) and the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA, P.L. 102-24) which have been started but not yet completed.

This legislative notice is based on the contents of the substitute amendment expected to be offered by the managers of the bill.

Fair Labor Standards Act and Motor Vehicles Under 10,000 lbs.:

Section 306 provides a one-year (beginning on August 10, 2005) limitation on liability to those employers inadvertently put under the overtime provisions of the Fair Labor Standards Act (FLSA) by SAFETEA-LU. Prior to the enactment of SAFETEA-LU, motor carriers and motor private carriers weighing 10,000 pounds or less were exempt from the FLSA overtime provisions because regulation of the drivers' hours fell to the Department of Transportation (DOT).

As a result of changes to the definitions of motor carrier and motor private carrier in SAFETEA-LU, employees who operated these vehicles were no longer covered by DOT, and thus subject to the requirements of the Fair Labor Standards Act. Section 306(c) provides an exception to the FLSA exemption, serving to bring employees defined as covered employees under the FLSA. Section 306 defines covered employees to include those of driver, driver's helper, loader, and mechanic affecting the operations of motor vehicles weighing 10,000 pounds or less. The section serves to change the date at which employers become liable; it not does reverse the inadvertent inclusion of these employees under the FLSA overtime requirement.

Magnetic Levitation Train Projects (MAGLEV):

Section 102 amends SAFETEA-LU such that \$90 million in contract authority is available for MAGLEV projects. The language specifies a \$45 million allocation to one MAGLEV project connecting Las Vegas and Primm, Nevada as a part of the MAGLEV system between Las Vegas and Anaheim, California, as well as a \$45 million allocation for projects east of the Mississippi River. The language also specifies that the Nevada Department of Transportation shall cooperate with the California-Nevada Super Speed Train Commission for the project.

SAFETEA-LU failed to include contract authority for the MAGLEV project. According to the bill managers, Section 102 is a technical correction which reverses that failure.

Intoxicated Driver Definition:

Section 115 amends the definition of “repeat intoxicated driver law” in section 164(a)(5)(A) of title 23, United States Code to clarify that the definition includes a state law that provides a driver's license suspension for not less than one year, or a combination of suspension of all driving privileges for the first 45 days of the suspension period followed by reinstatement of limited driving privileges if an ignition interlock device is installed on each motor vehicle owned or operated by the offender.

This provision permits states to either continue with the current one-year license suspension requirement, or to utilize a 45-day license suspension, after which limited driving privileges are reinstated provided that an ignition interlock device (which prevents offenders with alcohol in their bloodstream from operating their vehicle) is placed on the offender's vehicle.

Highway Safety:

Section 303 establishes that no state shall receive less than 0.75 percent of total State and Community Highway Safety Grants. SAFETEA-LU established this percentage at 0.5 percent of total grants. The change is effective October 1, 2007.

I-75/“Coconut Road”:

Section 109 makes a series of changes to Section 1934(c) of SAFETEA-LU. Included is language that reverses the changes made by the enrolling clerk regarding certain improvements to I-75 in Collier and Lee Counties in Florida, restoring the language to what it was when SAFETEA-LU passed the House and Senate.

• **Title I-Highway Provisions**

- The title makes changes to surface transportation provisions in SAFETEA-LU; makes changes to MAGLEV projects, makes changes to projects of national and regional significance in SAFETEA-LU; repeals 23 U.S.C. 111(d) regarding idling reduction facilities; and makes a series of changes to project authorizations in SAFETEA-LU.
- Section 110 makes changes to the language in SAFETEA-LU concerning the I-95/Contee Road Interchange Design.
- Section 111 provides that a portion of certain appropriated funds be made available for Highway Research Funding.
- Section 113 contains technical corrections to TEA-21.

- Section 115 contains a change to the definition of “Repeat Intoxicated Driver.”
- Section 117 provides for certain notifications concerning Buy America Waivers.
- Section 118 directs the DOT Secretary to complete a study and a report concerning the use of safety shoulders for vehicle traffic.

- **Title II-Transit Provisions**
 - Section 201 contains transit technical corrections.

- **Title III-Other Surface Transportation Provisions**
 - Sections 301 and 302 make changes to motor carrier safety provisions and hazardous materials transportation.
 - Section 303 establishes higher minimums for the receipt by states of grants for highway safety programs.
 - Section 305 requires DOT to prescribe regulations for minimum levels of financial responsibility for entities transporting passengers for a fee between states.
 - Section 306 concerns applicability of the FLSA and places limits on liability for violations of it for one calendar year beginning on August 10, 2005.

- **Title IV-Miscellaneous Provisions**
 - This title requires the General Services Administration (GSA) to convey certain real property to the Alaska Railroad Corporation (ARC). For this conveyance, the title provides for compensation, appraisals, and other details concerning the conveyance.
 - Section 402 requires GSA to convey interests retained by the United States in certain property in Michigan. The section provides details concerning consideration for the interest.

- **Title V-Other Provisions**
 - This title increases a project authorization level in the Water Resources Development Act of 1992 from \$55,000,000 to \$75,000,000. According to the bill managers, H.R. 1495, the Water Resources Development Act of 2007 (P.L. 110-114) failed to include this change because of a drafting error.

Administration Position

At press time, there was no Statement of Administration Policy (SAP) for H.R. 1195.

Cost

At press time, there was no official score for the substitute amendment for H.R. 1195. The preliminary Congressional Budget Office (CBO) score for the substitute notes a reduction in budget authority of \$4 million over the FY 2008 and 2009 period, and a reduction in budget authority of \$1 million over the FY 2008-2012 period. The CBO score for H.R. 1195 as ordered reported by the EPW Committee last year noted that the bill's net budget impact would be a reduction of \$4 million in budget authority over the FY 2007-2009 period.

Possible Amendments

Amendments are expected concerning:

- Changes to the MAGLEV project in section 102;
- An investigation into altered language (“Coconut Road”) in SAFETEA-LU; and
- State enforcement of certain federal consumer protection regulations regarding movers of household goods engaged in interstate commerce.